

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KEVIN G. SIMILA,

Plaintiff,

ORDER

v.

07-C-0029-C

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

Plaintiff Kevin Simila requests leave to proceed in forma pauperis on appeal from this court's judgment entered October 2, 2007, affirming the Commissioner's decision denying plaintiff's applications for social security disability benefits and supplemental security income. To determine whether a plaintiff qualifies for indigent status, the court uses the following calculation: From plaintiff's annual gross income, the court subtracts \$3,400 for each dependent, excluding the plaintiff. If the balance is less than \$15,000, the plaintiff may proceed without any prepayment of fees and costs; if the balance is greater than \$15,000 but less than \$28,000, the plaintiff must prepay half the fees and costs; and if the balance is greater than \$28,000, the plaintiff must prepay all fees and costs. Substantial assets or debts require individual consideration.

Plaintiff is married and has two dependents. Plaintiff's wife earns an average of \$2,500 per month or \$30,000 annually. Subtracting from that amount \$6,800 for the couple's dependents leaves a balance of \$23,200. Applying the formula above, plaintiff falls into the intermediate category where he must prepay half the fees and costs. I note that although plaintiff and his wife's monthly obligations appear to exceed their monthly income, they do not have any unusually large debts or obligations. Accordingly, if he wishes to proceed with this action, plaintiff will have to pay half of the \$455 the filing fee, or \$227.50.

ORDER

IT IS ORDERED that plaintiff's request for leave to proceed in forma pauperis on appeal is DENIED because plaintiff does not qualify for indigent status. However, plaintiff's income qualifies him for a reduction of the filing fee. Plaintiff is entitled to proceed upon payment of \$227.50. Plaintiff may have until December 9, 2007 by which to pay the \$227.50 filing fee for his appeal. If by December 9, 2007, plaintiff fails to pay the fee or show cause for his failure to do so, I will notify the court of appeals of his noncompliance so that it may take whatever action it deems appropriate with respect to his appeal.

Entered this 9th day of November, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge